

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26150 of 1995

Dated: 24.11.2006

Between:

P. Venkateshwarlu

... Petitioner

AND

The Labour Court-III, Hyderabad
& another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26150 of 1995

ORDER:-

The petitioner in this writ petition questioned the Award of the Labour Court-III, Hyderabad, the 1st respondent herein, in I.D.No104 of 1993 (old I.D.No.14 of 1988) dated 01.01.1994 whereby it refused to interfere with the order dated 14.07.1986 passed by the 2nd respondent, dismissing the petitioner from service.

The petitioner was appointed as operator in the 2nd respondent company with effect from 1981. He became General Secretary of the Working Union in the year 1986. On 12.02.1986, an incident took place in the factory premises of the 2nd respondent in connection with which the petitioner was served with charge memo on 14.02.1986. The charge memo reads as under:

"CEAT TYRES OF INDIA LTD, GLASS FIBRE DIVISION HYDERABAD	REGISTERED A/D
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Ref. CGFD:LM: 86

14th February 1986

Mr.P.Venkateswarlu,
Operator – Fibre Forming

Residence:
Mr. P. Venkateswarlu,
S/o. Mr.Narasimha Rao
C/o.Mr.B.Satyanarayana
Gupta
PALMAKUL-509 325
Ranga Reddy Dist., A.P.

It has been reported against you as under:

On 12.02.1986, around 5.15 p.m. you along with another co-worker, Mr.A.Narasimloo and a number of outsiders, forcibly entered the factory premises with sticks and lathis and joined a group of workmen, who were already staging a violent demonstration and further incited them to abuse, intimidate and threaten the company executives present there. In the process, some people have caused serious damage to the property of the company by breaking all the glass panes of the weigh bridge office.

You also threatened the Divisional General Manger and the Personnel Manager with dire consequences on some alleged assault that had taken place earlier between two groups of contract labour outside the factory.

That during the violent demonstration, a few outsiders who already entered the factory led by you, also threatened the Divisional General Manager and the Personnel Manager with lathis to assault them. That after this violent demonstration and acts of intimidation, shouting and abuse, you led the entire crowd including the workmen in the shift outside the factory.

Since the charges alleged against you are of serious nature, you are also placed under suspension with immediate effect pending enquiry with the charges alleged and final orders issued in the matter.

For CEAT TYRES OF INDIA LIMITED
(GLASS FIBRE DIVISION)

B.S. SEN
DIVL. VICE-PRESIDENT"

The petitioner submitted his reply on 02.05.1986 wherein *inter alia* he denied his presence at the factory as he was in Hyderabad till 17.02.1986. Not being satisfied with the said explanation, the 2nd respondent appointed an enquiry officer, who submitted an enquiry report at the completion of the enquiry on 18.05.1986. The enquiry

officer found the petitioner guilty of the charge framed against him. Accepting the enquiry report, the management of the 2nd respondent dismissed the petitioner from service on 14.07.1986.

Questioning the said order of dismissal, the petitioner approached the 1st respondent by way of the aforementioned I.D. and the Labour Court, as stated supra, declined to interfere with the order of dismissal.

Sri B.G.Ravindera Reddy, learned counsel for the petitioner submits that the petitioner, apart from examining himself, adduced the evidence of three defence witnesses and both the enquiry officer and the Labour Court failed to consider the depositions of the witnesses examined on his side and instead, both the fora have relied upon the evidence adduced by the management alone to sustain the dismissal order of the 2nd respondent.

I have perused the enquiry report and the award passed by the Labour Court. CW.1 categorically stated that he received a phone call from the petitioner from Palmakol village at about 3-00 p.m. on 12.02.1986 wanting a vehicle to be sent to him for coming to the factory and when he declined the petitioner's request, the petitioner on the same evening accompanied by one Narsimloo, a co-worker, and a few villagers came inside the factory with lathies and sticks and threatened him and others with dire consequences. CW.1 also deposed that the petitioner instigated the workers working in B shift to stop the work and come out. The evidence of CW.1 is corroborated by the evidence of other witnesses viz., CWs.2 to 6. In disciplinary proceedings unlike criminal cases proof beyond reasonable doubt is not required and even preponderance of probabilities is sufficient to hold an employee guilty of misconduct.

It is evident from the enquiry report that the enquiry officer has weighed the evidence on both sides and came to the conclusion that the evidence of the defence witnesses cannot be relied upon.

After analyzing the entire material on record including the evidence, the enquiry officer gave the finding that the charge is proved against the petitioner. On a perusal of the enquiry report and the award, I am satisfied that the findings arrived at by the enquiry officer and as confirmed by the Labour Court are based on evidence, which is cogent and relevant.

It is a well settled law that in disciplinary proceedings the scope of interference under Article 226 of the Constitution of India is limited and while examining the correctness or otherwise of the findings in the departmental proceedings, the Courts will not reassess the evidence. Except in cases where the findings are based on no evidence, the Courts would not re-examine the findings with reference to the evidence available on record in order to come to a different conclusion.

From the record, I am satisfied that the evidence adduced by the management to bring home the misconduct of the petitioner is sufficient to justify the findings arrived at by the enquiry officer on the basis of which the petitioner was dismissed from service. I, therefore, do not see any reason to interfere with the penalty imposed on the petitioner. The Award of the Labour Court therefore does not suffer from any error warranting interference by this Court.

For the aforementioned reasons, the writ petition is dismissed, but in the circumstances no costs.

C.V. NAGARJUNA REDDY, J

Date: 24.11.2006
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